IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Smt.Baljinder Kaur v. State of Rajasthan & Anr.

S.B.CIVIL WRIT PETITION NO.1523/1993
under Article 226 of the Constitution of India.

Date of Order : 11th April, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. J.L.Purohit, for the petitioner.
Mr. Shyam Ladrecha, Addl. Govt. Advocate.

BY THE COURT :

The petitioner submitted an application for allotment of 25 bighas of land in square No.338/440 and 334/437 in pursuance of a notification issued by the Government of Rajasthan as required under Rule 13-A of the Rajasthan Colonisation (Allotment and sale of Government Land in Indira Gandhi Canal Colony Area) Rules, 1975 (hereinafter referred to as “the Rules of 1975”).

The petitioner was the only effective contender for allotment of land applied by her as two other contenders viz. Smt.Santosh Kumari and Smt.Sumitra Devi restricted their applications for allotment of land in square No.338/440 and the petitioner restricted her claim to allotment of 15 bighas of land in square No.334/437.

Before allotment order could be passed the Government of Rajasthan by an order dated 30.11.1991 imposed a ban on special allotment of land under the Rules of 1975. The ban so imposed by order dated 30.11.1991 was withdrawn by the Government of Rajasthan by an order dated 13.5.1992. The Government while withdrawing the ban on special allotment of land under the Rules of 1975 by order dated 13.5.1992 also ordered that the applications pending for special allotment submitted in pursuance of earlier notifications be treated cancelled and all such applicants shall be required to apply afresh on issuance of new notification. The earnest money deposited by those applicants was to be adjusted as earnest money with new applications, if any filed.

In view of the order dated 13.5.1992 the application submitted by the petitioner for allotment of land under the Rules of 1975 was dismissed by

allotting authority i.e. the Assistant Collector, by an order dated 9.6.1992. The instant writ petition has been filed being aggrieved by the order dated 13.5.1992 and the order dated 9.6.1992 referred above.

The contention of the counsel for the petitioner is that the petitioner submitted an application under Rule 13-A of the Rules of 1975 for allotment of land in square No.334/437 and 338/444 but subsequently restricted her claim for allotment of land to the extent of 15 bighas in square No.334/437. She was the only contender for allotment of land in the said square when the ban was imposed by the Government of Rajasthan. There was no just and valid reason for cancelling the application submitted by the petitioner while withdrawing the ban imposed by the Government. It is further contended by the counsel for the petitioner that the land in square No.334/437 was available for allotment even at the time when the ban was imposed and also when the ban was withdrawn.

Per contra, it is stated by the counsel for the respondents that there was no illegality in rejecting the applications pending for allotment of land while withdrawing the imposition of ban on allotment of land under the Rules of 1975. It is also contended by the counsel for the respondents that no injury was caused to the petitioner by rejection of application submitted by her as she was having an

opportunity to apply afresh for allotment of land and the amount deposited by her as earnest money was also safe being to be adjusted as earnest money against new application.

I have heard counsel for the parties.

Before proceeding further, it is pertinent to note that this Court while admitting the writ petition for hearing by order dated 18.3.1993 pleased to direct the respondents not to allot land measuring 15 bighas in square NO.334/437 to any person. The interim order granted on 18.3.1993 was confirmed by this Court vide order dated 6.4.1998. In pursuance of the interim order passed by this Court the land for allotment of which the petitioner submitted an application under Rule 13-A of the Rules of 1975 is still available with the respondents.

The respondents in their reply have not given any reason as to why while withdrawing the ban on special allotment the applications already pending for allotment of land were treated rejected. No reason has also been given by the respondents for imposing the ban on special allotment when the application submitted by the petitioner was pending.

In normal course there should be cogent reasons for imposing ban on special allotment and also

for withdrawing the same. The petitioner was the only contender when she submitted application for allotment of land measuring 15 bighas in square No.334/437. If the respondents would not have imposed the ban there were all chances of making allotment of land in her favour. The right of the petitioner for consideration for allotment was, therefore, adversely effected by order of Government imposing the ban. The respondents when withdrew the ban without assigning any reason treated the pending applications rejected. The government and its authorities empowered under the Rules of 1975 to make allotment of land, discharges statutory powers while making allotments. Such kind of statutory allotments cannot be permitted to rest upon the whims of the administrative authorities. Principles of fair play requires that statutory power should be exercised cautiously and all the actions taken under those powers should be based on objective considerations. In the present case respondents have utterly failed to show any reason sufficient to cancel the pending applications for allotment of land.

In view of it I am of the considered opinion that there was no just and valid reason available with the respondents to reject the pending applications for special allotment of land under the Rules of 1975 while withdrawing the ban imposed upon the special allotment.

Accordingly this writ petition succeeds. The order Anx.3 dated 9.6.1992 passed by Assistant Collector, Anupgarh is quashed. The allotting authority under the Rules of 1975 is directed to consider the application submitted by the petitioner afresh for special allotment of land in square No.334/437 in accordance with law.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.